



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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Matthew J. Strickler
Secretary of Natural Resources

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Director

James J. Golden
Regional Director

**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
HANOVER COUNTY DEPARTMENT OF PUBLIC UTILITIES
FOR
DOSWELL WASTEWATER TREATMENT PLANT
VPDES PERMIT NO. VA0029521**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Hanover County Department of Public Utilities for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b), and Va. Code §62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10
6. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
 - (a) Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - (b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
7. "DMR" means Discharge Monitoring Report.
8. "Effluent" means wastewater, treated or untreated, that flows out of a treatment plant, sewer, or industrial outfall.
9. "Facility" or "Plant" means the Doswell Wastewater Treatment Plant ("Doswell WWTP") located at 15468 Theme Park Way, Hanover, Virginia, which manages and discharges treated sewage and other municipal wastes.
10. "Hanover County Department of Public Utilities" means the Hanover County Department of Public Utilities ("Hanover DPU"), an administrative department of Hanover County that is part of a political subdivision of the Commonwealth of Virginia. Hanover DPU is a "person" within the meaning of Va. Code § 62.1-44.3.
11. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
12. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
13. "Permit" means VPDES Permit No. VA0029521, which was re-issued under the State Water Control Law and Regulation to Hanover DPU on February 8, 2013 and administratively continued on January 5, 2018.
14. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9 VAC 25-31-10.

15. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.
16. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
17. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
18. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
19. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
20. "Va. Code" means the Code of Virginia (1950), as amended.
21. "VAC" means the Virginia Administrative Code.
22. "VPDES" means the Virginia Pollutant Discharge Elimination System.

SECTION C: Findings of Fact and Conclusions of Law

1. Hanover DPU owns and operates the Plant. The Permit allows Hanover DPU to discharge treated sewage and other municipal wastes from the Plant to North Anna River, in strict compliance with the terms and conditions of the Permit.
2. During the 2016 §305(b)/303(d) Integrated Water Quality Assessment, the North Anna River was assessed as a Category 4A waterbody. It was impaired for Recreation Use due to E. coli exceedances. The Aquatic Life Use and Wildlife Use were fully supporting. The Fish Consumption Use was not assessed. The Plant was addressed in the Pamunkey River and Tributaries Bacterial Total Maximum Daily Load ("TMDL"), which was approved by the State Water Control Board ("SWCB") on December 11, 2014 and by the U.S. Environmental Protection Agency ("EPA") on April 27, 2015. The Plant received an E. coli wasteload allocation of 1.10e+13 cfu/year. The Chesapeake Bay TMDL was approved by EPA on December 29, 2010. The TMDL allocates loads for total nitrogen,

total phosphorus, and total suspended solids to protect dissolved oxygen and submerged aquatic vegetation criteria in the Chesapeake Bay and its tidal tributaries. The Plant's discharge is considered a significant nutrient discharge in the Pamunkey River Tidal Freshwater segment. The Plant received total nitrogen, total phosphorus, and total suspended solids wasteload allocations of 18,273 lbs./year, 1,218 lbs./year, and 91,366.8 lbs./year, respectively. At the location of the Facility's discharge the North Anna River has been designated a Tier 1 water other than for dissolved oxygen for which it has been designated a Tier 2 water.

3. Doswell WWTP treats and discharges sewage and other municipal wastes from residential and industrial facilities in the jurisdictional area, including the Bear Island Paper Company facility ("Bear Island"). Bear Island's manufacturing process effluent is combined with Doswell WWTP effluent in accordance with the Permit. Pursuant to Permit Condition I.B.3, Hanover DPU and Bear Island are required to have in effect a "binding contract, approved by the DEQ staff, providing for the enforcement by Hanover County against Bear Island of all requirements contained in the permit for its duration . . ." Hanover County and Bear Island entered into a series of agreements from April 28, 2004 to June 21, 2018 (Effective until September 30, 2020) whereby Hanover County is compensated to provide water supply and sewer service.
4. The contract dated April 28, 2004, along with a series of amendments and extensions, provide a description of the operating relationship between Hanover County and Bear Island to comply with the Permit.
5. The Bear Island facility was idled in June 2017, and re-opened in September 2018 until February 2019. The facility was sold to Cascades Inc. on July 26, 2018 with a 27-month lease-back option to Bear Island. The facility is currently owned and operated by 819 Virginia, LLC, a subsidiary business interest of Cascades, Inc.
6. A facility compliance inspection was conducted on December 4-5, 2018 that included treatment works at both the Doswell WWTP and Bear Island. The following violations were observed for Doswell WWTP:
 - a. A June 2018 DMR indicates that total suspended solids ("TSS") was analyzed at Outfall 001 for two days during the week of May 27, 2018. In addition, a January 2019 DMR indicates that TSS was analyzed at Outfall 001 for two days during the week of December 30, 2018. A revised DMR was submitted on March 13, 2019 providing corrections to the January 2019 DMR.

Permit Part I.A.1.a requires a Frequency of Analysis of "3 days/week" for TSS at Outfall 001.

- b. An October 2018 DMR indicates the reported weekly average TSS at Outfall 001 was 90.7 mg/L versus a calculated permit limit (Lw) of 47.7 mg/L for the week of October 21, 2018.

Va. Code § 62.1-44.5 states that: "[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances."

The Regulation, at 9 VAC 25-31-50 states that, "[E]xcept in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes."

Permit Part I.A.1.d requires that an average daily TSS effluent value over a calendar week shall not exceed the value established by the control equation described at Permit Part I.A.1.d.

- c. A December 2018 DMR indicates the reported weekly average ("Biological Oxygen Demand") BOD₅ was 60.7 mg/L at Outfall 001 versus a calculated permit limit of 49.0 mg/L for the week of December 2, 2018. The reported weekly average BOD₅ was 54.8 mg/L versus a calculated permit limit of 48.9 mg/L for the week of December 9, 2018.

Va. Code § 62.1-44.5 states that: "[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances."

The Regulation, at 9 VAC 25-31-50 states that, "[E]xcept in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes."

Permit Part I.A.1.c requires than an average BOD₅ effluent value over a calendar week shall not exceed the value established by the control equation described at Permit Part I.A.1.c.

- d. During the December 4-5, 2018 inspection, staff observed cloudy, white-grey water was discharging into the North Anna River. A plume approximately 75 feet in length extended downstream from Outfall 001. Small white-gray solids were also observed on the water surface.

Va. Code § 62.1-44.5 states that: "[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances."

The Regulation, at 9 VAC 25-31-50 states that, "[E]xcept in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes."

Permit Part I.A.1.b states, "There shall be no discharge of floating solids or visible foam in other than trace amounts."

- e. During the December 4-5, 2018 inspection, staff observed discoloration of Doswell WWTP's effluent. Upon further investigation, it was reported by Bear Island staff that the discoloration resulted from a caustic additive in use at Bear Island for pH adjustment to their effluent. The facility was drip-feeding the material from a tote into a secondary clarifier. Bear Island discontinued the practice.

The Bear Island Operation and Maintenance Manual ("O&M Manual") does not include the addition of caustic to secondary clarifiers for pH control. Permit Part I.B.25 states, "... The permittee shall operate the treatment works in accordance with the approved O&M Manuals ... Any changes in the practices and procedures followed by the permittee shall be documented and submitted for DEQ regional staff approval within 90 days of the effective date of the changes ... Noncompliance with the O&M Manuals shall be deemed a violation of the permit."

In addition, Part 2.2.1 on page 12 of the O&M Manual states "...Since the pH of the waste leaving the mill is low, lime is added to the waste stream to raise the pH. A slaked lime system is connected to the main sewer line near the chemical tank farm for the purpose of pH control. There is also the more expensive option for caustic addition in the TMP floor drain should the lime slaker fail ..."

- f. During the December 4-5, 2018 inspection, staff observed an abnormal amount of floating solids on the water surface in Primary Clarifier No. 2, resulting from a clogged scum box. The scum box was subsequently cleaned by Bear Island staff.

Permit Part I.B.25 states, "... The permittee shall operate the treatment works in accordance with the approved O&M Manuals ... Noncompliance with the O&M Manuals shall be deemed a violation of the permit."

In addition, Part 3.3 (pg. 30) of the O&M Manual states "... A skimming device is furnished to collect the floating scum at the periphery of the tank and the inside of the trough where it is deposited into the scum box. The device is supported from the truss and consists of hinged skimming blades with neoprene strips on the bottom inner edges to seal the entrapped scum when discharging into the trough. Any skimmings entering the scum box will flow by gravity to the sludge holding tank ..."

- g. The Bear Island facility lost power to all units during the DEQ inspection on December 5, 2018 due to a Programmable Logic Controller ("PLC") malfunction. The Return Activated Sludge pumps also lost power, causing a high level of solids in the secondary clarifiers. The O&M Manual does not include a narrative regarding operation and maintenance of the PLC. Bear Island staff subsequently returned the PLC to service and updated their O&M Manual.

Part I.B.25 of the Permit states, "... The permittee will maintain accurate, approved O&M Manuals for the treatment works. The manuals shall detail the practices and procedures which will be followed to ensure compliance with the requirements of the permit. The permittee shall operate the treatment works in accordance with the

approved O&M Manuals. The manuals shall include, but not necessarily be limited to, the following items, as appropriate ... d. Treatment works design, treatment works operation, routine preventive maintenance of units within the treatment works, critical spare parts inventory, and record keeping ... Noncompliance with the O&M Manual shall be deemed a violation of the permit.”

7. DEQ subsequently issued an NOV on March 6, 2019 to Hanover DPU. Hanover County and Bear Island provided responses addressing matters specific to each entity’s own facility. DEQ staff met with representatives from both Hanover DPU and Bear Island and corresponded regularly beginning on March 27, 2019 to discuss the NOV, responses, and outstanding requirements for corrective action. As of April 10, 2019, sufficient corrective action was taken to address the identified violations.
8. DEQ did not receive a notice of planned change in operations concerning Bear Island’s disposal of chemicals through the Bear Island WWTP and into Doswell WWTP Outfall 001. Hanover DPU asserts that its understanding is that all such activities were in accordance with normal operating practices and industry standards. The Department asserts that Bear Island did not operate the Plant in accordance with the O&M Manual and did not provide updates to the O&M Manual.

Permit Part I.B.22 requires that, “The permittee shall provide adequate notice to the Department of the following: . . b. Any substantial change in the volume or character of pollutants being introduced into the treatment works by a source introducing pollutants into the treatment works at the time of issuance of this permit.

Part I.B.25 of Permit VA0029521 states, “. . . The permittee will maintain accurate, approved operation and maintenance manuals for the treatment works. The manuals shall detail the practices and procedures which will be followed to ensure compliance with the requirements of the permit. The permittee shall operate the treatment works in accordance with the approved O&M Manuals. The manuals shall include, but not necessarily be limited to, the following items, as appropriate: . . . c. Discussion of Best Management Practices, if applicable; d. Treatment works design, treatment works operation, routine preventive maintenance of units within the treatment works, critical spare parts inventory, and record keeping; e. Procedures for handling, storing, and disposing of all waste, fluids, and pollutants characterized in Part I.B.26 that will prevent these materials from reaching state waters. Any changes in the practices and procedures followed by the permittee shall be documented and submitted for DEQ regional staff approval within 90 days of the effective date of the changes. Upon approval of the submitted manual changes, the revised manual becomes an enforceable part of the permit. Noncompliance with the O & M Manual shall be deemed a violation of the permit.”

9. On August 1, 2017, correspondence from Hanover DPU staff to Bear Island staff stated, “. . . Bear Island’s wastewater treatment plant is being idled, the quality of the treated effluent being discharged has not been typical of what has been discharged in the past. Due to this we may violate the limit in our VPDES permit...” This was described by Hanover DPU as normal communication between Hanover DPU and Bear Island to

address atypical quality and ensure it is corrected by Bear Island. DEQ was not notified of the change in quality of the Bear Island effluent.

Permit Part I.B.22 requires that, “The permittee shall provide adequate notice to the Department of the following: . . . b. Any substantial change in the volume or character of pollutants being introduced into the treatment works by a source introducing pollutants into the treatment works at the time of issuance of this permit.

Permit Part II.J.2 requires that, “The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.”

10. On December 1, 2017, correspondence from Bear Island staff to Hanover DPU staff stated, “we have installed a line coming from our process water tank (which is Meadows water) to the weir of the secondary clarifier so that the outfall pipe always has some flow leaving the clarifier and being discharged to the flume...” The statement indicates that the line was installed to improve effluent quality and ensure permit requirements were satisfied. DEQ was not notified of the pipe installation.

Permit Part II.J.1 requires that, The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when: . . . b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or . . .”

11. The Hanover Fire Marshall, which had investigated a chemical spill at the Bear Island facility, informed Hanover DPU that DEQ might be considering issuing a second NOV related to that chemical spill. In response, Hanover DPU proactively requested a meeting with DEQ to discuss the situation. A meeting was held August 26, 2019 where the DEQ asked Hanover DPU several questions related to Bear Island’s operations. DEQ subsequently issued a second NOV on August 29, 2019 to Hanover DPU.
12. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
13. The Department has issued no permits or certificates to Hanover DPU other than VPDES Permit No. VA0029521.
14. The North Anna River is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
15. Based on the results of the December 4-5, 2018 inspection, the Board concludes that Hanover DPU has violated Va. Code §62.1-44.5, 9 VAC 25-31-50 and the Permit as described above.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Hanover DPU, and Hanover DPU agrees to:

1. Pay a civil charge of **\$31,300** within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payments shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Hanover DPU shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, the Authority shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Hanover DPU (a) for good cause shown by Hanover DPU, or (b) on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Hanover DPU admits to the jurisdictional allegations, and agrees not to contest, but does not admit, the findings of fact and conclusion of law in this Order.
4. Hanover DPU consents to venue in the Circuit Court of Hanover County in accordance with Code of Virginia section 801-261(1) for any civil action taken to enforce the terms of this Order.

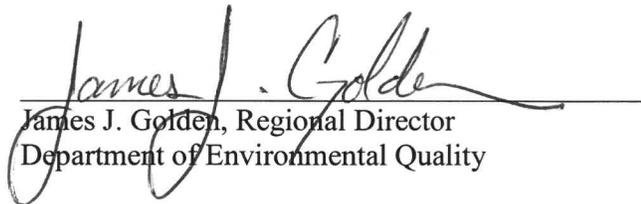
5. Hanover DPU declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Hanover DPU to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Hanover DPU shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Hanover DPU shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Hanover DPU shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which Hanover DPU intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and Hanover DPU. Nevertheless, Hanover DPU agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall terminate with the payment of the civil charge required by this order. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Hanover DPU from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. The undersigned representative of Hanover DPU certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Hanover DPU to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Hanover DPU.
13. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
14. By its signature below, Hanover DPU voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 24th day of July, 2020.


James J. Golden, Regional Director
Department of Environmental Quality

Hanover County Department of Public Utilities voluntarily agrees to the issuance of this Order.

Date: 5.22.2020 By: [Signature]
Deputy County Administrator

Commonwealth of Virginia

The County/County of Hanover

The foregoing document was signed and acknowledged before me this 22 day of

May, 2020, by Frank Hansen, Jr. who is Deputy County Administrator of

Hanover County.

[Signature]
Notary Public

7352621
Registration No.

My commission expires: 05/31/2022

Notary seal:

SAUNDRA E MARTIN
NOTARY PUBLIC
7352621
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES MAY 31, 2022